IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

WEDNESDAY, THE TWENTY SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

* * *

WRIT PETITION No. 19685 of 2007

Between:

Smt. Malini, w/o. Gopal, aged 40 years,
0cc. Fair Price Shop Dealer, r/o. Appecherla (v),
Peddavaduguru Mandal, Anantapur district. … Petitioner

Versus

The Joint Collector,
Anantapur district & Anr. … Respondents

Counsel for the Petitioner: **Sri N.Chandrasekhar Reddy**

Counsel for the Respondents: **Govt. Pleader for Civil**

Supplies

O R D E R :

The matter is coming up 'for admission'. This Court ordered notice before admission on 17-9-2007.

2. Heard Sri N.Chandrasekhar Reddy, the learned counsel representing the writ petitioner and the learned Govt.Pleader for Civil Supplies.

3. The writ petition is filed for issue of a writ of certiorari calling for records in relation to the orders of the first respondent made in D.Dis.No.K4/ATP619/2006, dated 9-5-2007 and to quash the same holding that the same is without jurisdiction and consequently to set aside the orders of the second respondent made in D.Dis.No.D4-CS/671/2006, dated 30-10-2006 in the interest of justice.

4. It is stated that the petitioner was appointed as permanent Fair Price Shop Dealer in the year 1989 for Appechrla village of Anantapur district and from the date onwards the petitioner has been distributing essential commodities to the card-holders and there is no complaint against him from any quarter. It is also stated that after 2004 Assembly Election, there is a spate of suspensions of Fair Price Shop Dealerships in Anantapur district and troubles started from then onwards, the authorization of the petitioner was cancelled in the year 2004, however, the said orders of cancellation was set aside by this

Court. Again a show cause notice was issued on 15-4-2006, when the petitioner had been running the Fair Price Shop with interim orders of this Court in WP.No.2794 of 2005, calling upon the petitioner to explain as to why his authorization should not be cancelled pending enquiry and his authorization was kept under suspension. The petitioner submitted his explanation and sought the material on which the enquiry was relied, however, the second respondent proceeded with the enquiry without furnishing the material on which he relied.

5. It is further stated that earlier also the second respondent had cancelled authorization of the petitioner by an order dated 11-2-2005. Aggrieved thereby, the petitioner filed WP.No.2794 of 2005 and this Court allowed the said writ petition by an order dated 31-8-2006 on the ground that the impugned order was passed without following the principles of natural justice, as the petitioner was not served with any show cause notice. It is stated that pending above writ petition, a show cause notice was issued on 15-4-2006, though the petitioner had given pertinent explanation by raising the ground that he had not been served with any material on which the enquiry report had been made, the second respondent had cancelled his authorization by order dated 30-10-2006, however, he had not referred to the order of this Court dated 31-8-2006. Against the said orders of cancellation, the petitioner

filed an appeal before the first respondent, the first respondent by orders dated 9-5-2007 allowed the appeal on the ground that the second respondent had not furnished the copies of the material on which he relied for passing cancellation order, the first respondent directed the second respondent to review the orders of cancellation.

6. It is stated that the authorities under the Act have no power to review their own order, the order of the respondent no.1 is vague, once the appellate authority found that the original authority passed the orders by violating the principles of natural justice ought to have set aside the impugned order. The appellate authority had not made clear, as to what should happen during the pendency of re-enquiry.

7. It is also further stated that the petitioner was appointed in the year 1999 and the petitioner has been distributing the essential commodities since then, major part of his livelihood used to come from the commission which he gets as a fair price shop dealer. The petitioner had been harassed by the authorities for the past three years with series of show cause notice and cancellations and the petitioner being victimized by the authorities and local politicians who want to have their henchmen as fair price shop dealer. In this regard, the petitioner had to file more than five writ petitions before this Court but for the protection which the petitioner got from this Court, his entire family would have been on the streets. Though revision lies to the

Collector, no useful purpose would be served because the orders of the first respondent is only in the nature of remand order. Secondly, having regard to earlier attitude of the officers, it is stated that the petitioner has no faith in the fairness of officers.

8. The impugned order in D.Dis.No.K4/ATP/619/06, dated 09-5-2007 made by the first respondent reads as hereunder:

> *In the grounds of appeal and during the course of hearing of the case, the counsel for the appellant mainly contended that without providing a copy of the enquiry report of Tahsildar, Peddavadagur Mandal to the appellant dealer and without giving an opportunity of personal hearing, the Revenue Divisional Officer, Anantapur has concluded that all the charges areproved against the appellant and ultimately cancelled the fair price shop authorization held by the appellant, which is against the principles of natural justice.*
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> *There is force in the argument of the counsel for the appellant as the order of Revenue Divisional Officer, Anantapur was passed without giving an opportunity of personal hearing and without providing a copy of enquiry report of Tahsildar, Peddavadagur Mandal. Hence, the Revenue Divisional Officer, Anantapur is directed to give an opportunity of personal hearing to the appellant dealer after providing a copy of enquiry report of Tahsildar, on payment of cost and then review his orders on merits and facts of the case*.

9. As can be seen from the impugned order, which is an order of remand and the Revenue Divisional Officer, Anantapur had been directed to give an opportunity of personal hearing of the petitioner after providing a copy on payment of costs and then review his orders

on merits and facts of the case.

10. Though certain submissions were made, regarding the word or expression “review” this aspect need not detain this court for the reason that further opportunity had been given to the writ petitioner by virtue of this order of remand.

11. In the light of the same, inasmuch as the first respondent exercised the discretion while making such an order, this Court is not inclined to disturb the said order. However, in-as-much-as the counsel for the writ petitioner apprehends that there would be inordinate delay in further completion of the enquiry. In that view of the matter, the second respondent is hereby directed to complete the enquiry within a period of two weeks from the date of receipt of this order.

12. With the above direction, the writ petition is disposed of at the stage of admission. No costs.

JUSTICE P . S . NARAYANA .

27/09/2007

lsL